REMARKS

Petition for Extension of Time Under 37 CFR 1.136(a)

It is hereby requested that the term to respond to the Examiner's Action of April 9, 2009 be extended one month, from July 9, 2009 to August 9, 2009.

The Commissioner is hereby authorized to charge the extension fee, and any additional fees associated with this communication to Deposit Account No. 50-4364.

The §101 Rejection

On page 2 of the Office Action, the Examiner rejected claim 10 under 35 U.S.C. §101 as being directed to non-statutory subject matter.

The §112 Rejections

On page 3 of the Office Action, the Examiner rejected claims 1, 4-6 and 8-10 under 35 U.S.C. §112, second paragraph, as being indefinite. Applicant has made amendments to these claims which overcome the objections made by the Examiner. Accordingly, it is submitted that claims 1, 4-6 and 8-10 meet the requirements of 35 U.S.C §112, second paragraph; the Examiner is respectfully requested to reconsider and withdraw the rejection of claims 1, 4-6 and 8-10 under 35 U.S.C. §112, second paragraph.

The §103 Rejections

On page 4 of the Office Action, the Examiner rejected claims 1, 5, and 8-10 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,351,779 to Berg et al. in view of

U.S. Patent No. 6,874,148 to Richardson et al. On page 6 of the Office Action, the Examiner

rejected claims 4 and 6 under 35 U.S.C. §103(a) as being unpatentable over Berg in view of

Richardson, and further in view of IBM Technical Disclosure "Forwarder Dynamic Link

Libraries as a Method for Service Software," IBM Corp, New York, vol. 38, No. 11, pp. 407-408

(1995) (hereinafter "IBM").

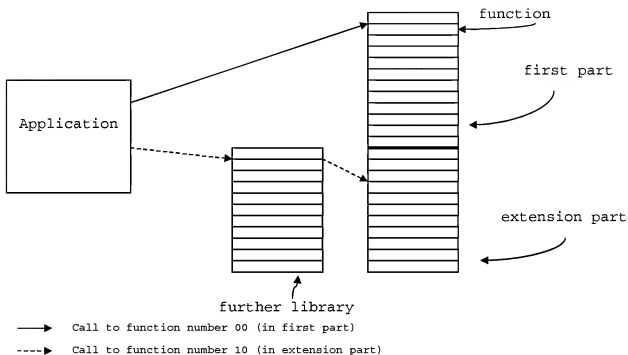### A *Prima Facie* Case of Obviousness Has Not Been Established

KSR (*KSR International Co. v. Teleflex Inc.*, 127 S. Ct. 1727, 82 USPQ2d 1385 (2007)

requires that an Examiner provide "some articulated reasoning with some rationale underpinning

to support the legal conclusion of obviousness." Further, an Examiner must "identify a reason

that would have prompted a person of ordinary skill in the relevant field to combine the elements

in the way the claimed new invention does," In addition, the Examiner must make "explicit" this

rationale of "the apparent reason to combine the known elements in the fashion claimed,"

including a detailed explanation of "the effects of demands known to the design community or

present in the marketplace" and "the background knowledge possessed by a person having

ordinary skill in the art."

These requirements have not been met. One novel aspect of the claimed invention is

that any "behind the scenes" modifications to the functions in an extension part of a library of

functions do not affect what an application "sees", because the intermediate "further library"

receives the function call from an executable program (e.g. an application) specifying a

particular ordinal number, and acts to direct the function call to the correct location within the

extension part. Thus, in order to allow changes to be made to the functionality within the
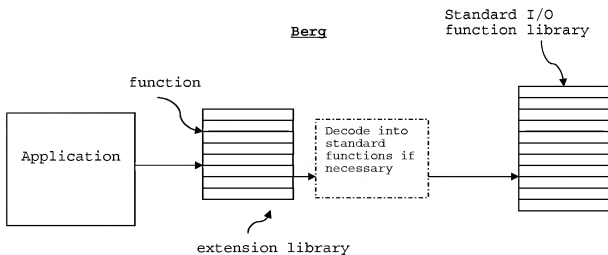
extension part, any function calls to functions in the extension part are directed via the

intermediate further library, which "knows" where the requested function sits within the

extension part. Functions that sit in the first part of the library cannot be amended, so no

intermediate library is needed for those. The position, or ordinal number, of a function is

used to determine whether that function can be accessed directly (i.e. it is in the first part) or

whether it must be accessed indirectly through the further library (i.e. it is in the extension

part).

     The drawings on the following page illustrate, in simplified format, differences

between Berg and the claimed invention:

Current claims

function

first part

Application

extension part

further library

→   Call to function number 00 (in first part)

----►   Call to function number 10 (in extension part)

Standard I/O
function library

Berg

function

Application

Decode into
standard
functions if
necessary

extension library

These novel concepts are explicitly claimed in the independent claims, e.g., in claim 1:

> "…configuring the computing device to provide the dynamic link library as a first part and an extension part, the first part and the extension part each containing one or more of the plurality of functions;
> executing the executable program using a processor of the computing device to cause the executable program to link to functions in the first part directly by means of the associated ordinal numbers; and
> executing the executable program using a processor of the computing device to cause the executable program to link to functions in the extension part indirectly via a further library containing additional functions."

In Berg, there is no concept of a "first part" and an "extension part" of a library of functions, some of which may be accessed directly and some of which must be accessed indirectly. Berg refers to an application making a function call into an "extension library", but it does not mention any alternative to such a call, e.g. a function call into another type of library.

Berg does state that when an application makes a call to a function in an extension library, a check is made to see whether an underlying library can support the call (column 4, lines 46-51). This library is a "standard I/O library" (see, e.g. column 4 and reference 18 in Fig. 1). If the standard library can support the call then the call is passed directly to that library. If the standard library cannot handle the call, then further processing is performed to convert the call into terms which can be supported by the standard library, i.e. it is decoded into primitive functions such that it can be interpreted by the standard I/O library (col. 4, lines 51-57). Thus, *the same, standard, I/O library* is ultimately used by *all* function calls that are mentioned in Berg; however some calls need to be decoded before they are passed there.

There is no suggestion of splitting the functions in the standard I/O library into two parts, and

allowing functions in one part to be accessed directly while functions in the other part must be accessed indirectly through another library. Instead, in Berg, all function calls are passed to the same standard library of functions. There is no indication of mandating indirection of a function call through another library on the basis of the position of a function in a library, or even on the basis of its name as suggested by the Examiner in the office action.

The addition of Richardson does not supply the above elements identified as missing from Berg (nor does the Examiner make such an assertion). Accordingly, for the reasons set forth above, the claimed invention patentably defines over the proposed Berg/Richardson combination. Further, however, Applicant notes that the Examiner relies on Richardson for an alleged teaching of "each function in the dynamic link library being associated with an *ordinary* number, and link to functions in the first part directly by means of the associated *ordinary* number" (emphasis added). Claim 1 recites, among other things, that each function of the dynamic link library is associated with an **ordinal** number, not and *ordinary* number. Richardson contains no teaching or suggestion of associating each function of a dynamic link library with an ordinal number, and thus, for this additional reason, the combination proposed by the Examiner does not teach or suggest the claimed invention.

Conclusion

The claimed invention is not taught or suggested by the prior art. Accordingly, the Examiner is respectfully requested to reconsider and withdraw the rejection of the claims. An early Notice of Allowance is earnestly solicited.

The Commissioner is hereby authorized to charge the extension fee, and any additional fees associated with this communication to Deposit Account No. 50-4364.

Respectfully submitted

 August 10, 2009

Date

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